

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CRIMINAL MINUTES

Date: December 16, 2020

Time: 3:00-3:38=
38 Minutes

Judge: EDWARD M. CHEN

Case No.: [17-cr-00533-EMC-2](#) **Case Name:** USA v. Raymond Michael Foakes

Attorney for Government: Kevin Barry

Attorney for Defendant: George Boisseau

Defendant: [X] Present by videoconference [] Not Present

Defendant's Custodial Status: [X] In Custody [] Not in Custody

Deputy Clerk: Angella Meuleman
Interpreter:

Court Reporter: JoAnn Bryce
Probation Officer: USPO Cris Taylor,
USPTO Anthony Granados

PROCEEDINGS HELD BY ZOOM WEBINAR

[1339] Motion For Release From Custody – held.

SUMMARY

Parties stated appearances and proffered argument. Defense counsel waived defendant's live appearance and confirmed defendant's consent to appearing by videoconference from Santa Rita Jail.

Court noted for the record, issue of due process can be raised even without a specific change of circumstances and that over time its weight as a factor grows. Court ruled it does have the ability to address due process questions even if it doesn't fit within the confines precisely of 3242(f). Court addressed the merits and the factors that inform the due process analysis for pre-trial detention and denied the motion for reasons as stated on the record. Court noted, among other things, the time in pretrial custody in this case is 27 months, not 3 years or longer as defense counsel suggested. Government is responsible for some, but not all the delay inasmuch as it took time to decide whether to seek death; while discovery and other work continued and the case did not come to a halt, the uncertainty of the process did slow some things down. Most of the delay inheres in the complexity of the case and the multitude of issues that have arisen. Defendant, for reasons previously identified by the court in denying bail, represents a danger to the community which cannot be adequately alleviated by conditions of release. The seriousness of the charges, nature of the alleged conduct, the strength of the evidence, and his poor performance on supervision in numerous cases are relevant facts in this regard.

Defense counsel requested assistance from the Court regarding Defendant's dental problems and issues surrounding the delay. Court set Status Conference on this issue for **December 21, 2020**. Time of status conference to be confirmed post hearing.

(Post Hearing: Status Conference set for 12/21/2020 at 2:30PM. Slot reserved from Santa Rita Jail.)